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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Adam Piaquadio,

Plaintiff,

v.

American Legal Funding LLC, et al.,

Defendants.

No. CV-15-00579-PHX-GMS

ORDER

Pending before the Court are Defendants American Legal Funding LLC, et al.'s motion for judgment on the pleadings (Doc. 51) pursuant to Federal Rule of Civil Procedure 12(c), Plaintiff Adam Piaquadio's two motions for leave to amend his pleadings (Docs. 52, 61) and his motion for extension of time (Doc. 65), as well as Defendants' motion to strike (Doc. 59). For the following reasons the Court grants Defendants' motion for judgment on the pleadings, and finds Plaintiff's motions for leave to amend, motion for extension of time, and Defendants' motion to strike as moot.

BACKGROUND

I. Procedural Posture

Plaintiff filed his first complaint against defendants American Legal Funding L.L.C. ("ALF") and ALfund, AZ1, L.L.C. ("AZ1") for claims of usurious lending and violation of the Arkansas Deceptive Trade Practices Act on or about April 16, 2010 in the United States District Court, Western District of Arkansas, Fort Smith Division ("Case 1"). Compl. ¶ 9. On June 30, 2011, the Arkansas court entered default judgment in Case

1 against ALF and AZ1 in the amount of \$452,940.00 (“Judgment”). Compl. ¶ 10, Ex. 1.
 2 ALF and AZ1 failed to satisfy any of the Judgment. Compl. ¶ 11. Thus, on June 20,
 3 2013, Plaintiff served discovery on both parties in aid of execution of the judgment.
 4 Compl. ¶ 12. E. Jeffrey Huff (“Huff”), president of ALF and authorized representative of
 5 AZ1, provided sworn responses to Plaintiff’s discovery on August 19, 2013. Compl. ¶
 6 13. The responses revealed that ALF and AZ1 collectively held \$3.80 in assets, and
 7 neither ALF nor AZ1 owned any real property, personal property, vehicles, stocks,
 8 bonds, trusts, or other investments. Compl. ¶ 14. Both entities, in effect, were defunct.
 9 Compl. ¶ 15.

10 Plaintiff then filed a second new complaint in the same Arkansas court on May 1,
 11 2014, against original defendants ALF and AZ1 plus new defendants Huff, Alanex
 12 L.L.C., American Legal Fund Management AZ., L.L.C. (“ALFM”), and John Doe
 13 defendants 1–50 (new defendants shall be collectively called the “alter ego defendants”)
 14 alleging piercing the corporate veil. (Doc. 1.) Upon Defendants’ motion to dismiss for
 15 improper venue, the court transferred the second complaint to this Court pursuant to 28
 16 U.S.C. §§ 1404(a), 1406(a). (Doc. 27.)

17 **II. Alter Ego Allegations**

18 Plaintiff raises a single claim for piercing the corporate veil, alleging that the alter
 19 ego defendants are alter egos of the original defendants ALF and AZ1 such that their
 20 assets may satisfy the outstanding Judgment. Compl. ¶¶ 16–35. Specifically, Plaintiff
 21 alleges that Huff and Alanex act as alter egos to ALF, and ALFM and Doe defendants 1–
 22 50 act as alter egos to AZ1. Compl. ¶¶ 16–35. Besides that distinction, Plaintiff asserts
 23 the same 10 allegations (except for changing the party names) to support his claim for
 24 piercing the corporate veil of both ALJ and AZI. *Compare* Compl. ¶¶ 16–25 with
 25 Compl. ¶¶ 26–35.

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DISCUSSION

I. Legal Standard

A motion for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) “is properly granted when, taking all the allegations in the non-moving party’s pleadings as true, the moving party is entitled to judgment as a matter of law.” *Fajardo v. County of L.A.*, 179 F.3d 698, 699 (9th Cir. 1999). To survive a Rule 12(c) motion, a plaintiff must allege sufficient facts to state a claim to relief that is plausible on its face. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *United States ex rel. Cafasso v. Gen. Dynamics C4 Sys., Inc.*, 637 F.3d 1047, 1054 n.4 (9th Cir. 2011) (finding *Iqbal* applies to Rule 12(c) motions because Rule 12(b)(6) and Rule 12(c) motions are “functionally identical”). Dismissal under Rule 12(b)(6), and accordingly Rule 12(c), can be based on “the lack of a cognizable legal theory” or “the absence of sufficient facts alleged under a cognizable legal theory.” *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990). “[T]he tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions.” *Id.* “When there are well-pleaded factual allegations, a court should assume their veracity and then determine whether they plausibly give rise to an entitlement to relief.” *Id.* at 679. “Determining whether a complaint states a plausible claim for relief will . . . be a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.*

II. Piercing the Corporate Veil Allegation

Arizona law does not recognize a claim for piercing the corporate veil, otherwise known as an alter ego claim, as an independent cause of action. *See, e.g., Five Points Hotel P’ship v. Pinsonneault*, 2014 WL 1713623, at *3–4 (D. Ariz. May 1, 2014) (dismissing plaintiffs’ complaint pleading “alter ego as an independent cause of action [since] the Court concludes that Arizona law does not recognize alter ego as an independent cause of action”); *In re Elegant Custom Homes, Inc.*, 2007 WL 1412456, at *6 (D. Ariz. May 14, 2007) *aff’d sub nom. Dusharm v. Elegant Custom*

1 *Homes, Inc.*, 302 F. App'x 571 (9th Cir. 2008) (“Appellants characterize veil piercing as
2 a distinct cause of action . . . , but the doctrine is not a cause of action in itself. Rather, it
3 is a means to vindicate the interests of parties injured through a breach of contract or a
4 tort.”); *Lindquist v. Farmers Ins. Co. of Ariz.*, 2008 WL 343299, at *10 (D. Ariz. Feb. 6,
5 2008) (citing *Local 159, 342, 343 & 444 v. Nor-Cal Plumbing, Inc.*, 185 F.3d 978, 985
6 (9th Cir. 1999) (“A request to pierce the corporate veil is only a means of imposing
7 liability for an underlying cause of action and is not a cause of action in and of itself.”)).

8 Plaintiff cites *Phoenix Van Buren Partners, LLC v. Moulding & Millwork, Inc.*,
9 2012 WL 1190842 (D. Ariz. Apr. 10, 2012) for the proposition that Arizona does
10 recognize an independent alter ego claim to satisfy an outstanding underlying judgment.
11 While *Van Buren* granted summary judgment for plaintiff on its alter ego claim to pierce
12 the corporate veil of the original defendant’s parent company in order to satisfy an
13 outstanding Arizona state court judgment, the court never faced, and thus never analyzed,
14 the question of whether an alter ego claim can be raised on its own under Arizona law.
15 *Id.* at *4, *11. *Five Points*, on the other hand, directly addressed that question while
16 acknowledging *Van Buren*, and concluded that Arizona law does not recognize alter ego
17 as an independent cause of action. *Five Points*, 2014 WL 1713623, at *3–4. Moreover,
18 as *Five Points* highlighted, when considering the issue, every court across the country
19 except one holds the same. *Id.* at *3 (citing cases from Arkansas, California, Colorado,
20 Florida, New York, Tennessee, Texas, and Utah which have held that “alter ego is not an
21 independent claim, but rather a theory of liability, procedure, or equity to enforce another
22 substantive claim.”); *but see Saidawi v. Giovanni’s Little Place, Inc.*, 987 S.W. 2d 501,
23 504 (Mo. Ct. App. 1999) (recognizing an alter ego claim as a separate cause of action).
24 The Supreme Court of the United States has also noted that “[p]iercing the corporate veil
25 is not itself an independent ERISA cause of action, ‘but rather is a means of imposing
26 liability on an underlying cause of action.’” *Peacock v. Thomas*, 516 U.S. 349, 354
27 (1996) (citation omitted).

28 Plaintiff lastly argues that because he seeks to impose alter ego liability based on

1 an underlying cause of action, *i.e.*, the default judgment, his complaint does not in fact
2 raise an independent alter ego cause of action. Plaintiff, however, cites no authority
3 recognizing a default judgment, entered by a district court, as an appropriate underlying
4 cause of action upon which a party, in an effort to enforce that judgment, may file a new
5 complaint raising an independent alter ego cause of action in a different district court.¹
6 The Court is not persuaded that Plaintiff's complaint raises anything other than an
7 independent cause of action.

8 Accordingly, because Arizona law does not recognize an alter ego claim as a
9 separate cause of action, the Court must enter judgment in favor of Defendants thus
10 dismissing Plaintiff's complaint. Nevertheless, that judgment will not be with prejudice.
11 As Defendants themselves acknowledge in their Reply, simply because there is no
12 independent free-standing cause of action for alter ego in Arizona does not mean that
13 Plaintiffs cannot seek to collect their Arkansas judgment against Defendants here if they
14 pursue the appropriate procedure. Further, even if Plaintiffs were not to seek to proceed
15 against Defendants in a collection action, it is not clear that Plaintiffs cannot proceed
16 against Defendants for the same causes of action they pursued against defaulting
17 Defendants in Arkansas when appropriate alter ego allegations are raised against such
18 Defendants in Arizona. Therefore while judgment will be granted in favor of
19 Defendants, that judgment will not be with prejudice.

20 CONCLUSION

21 For the foregoing reasons, the Court will grant Defendants' motion for judgment
22 on the pleadings, and finds the remaining motions moot.

23 IT IS HEREBY ORDERED:

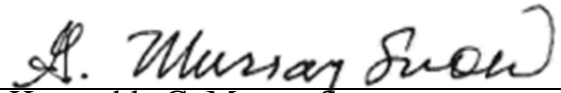
24 1. Defendants' Motion for Judgment on the Pleadings (Doc. 51) is
25 **GRANTED** and the Complaint is dismissed without prejudice.

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28 ¹ Moreover, attaching the default judgment to the complaint does not establish the
existence of an underlying claim, since it does not give the new alter ego defendants
notice of the tortious conduct on which Plaintiff now alleges they are liable.

2. Plaintiff's Motions for Leave to Amend (Docs. 52, 61) are moot.
3. Defendants' Motion to Strike (Doc. 59) is moot.
4. Plaintiff's Motion for Extension of Time (Doc. 65) is moot.
5. The Clerk of Court is directed to enter judgment accordingly.

Dated this 2nd day of February, 2016.



Honorable G. Murray Snow
United States District Judge